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Date: July 26, 2010 Name: Manish K. Mehta, Reg. No. 64,570 Signature: /Manish K. Mehta/

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Appln. of: David Ernest Hartley

Appln. No.: 10/647,642

Filed: August 25, 2003

For: Asymmetric Stent Graft Attachment

Attorney Docket No.: 12730/231

Examiner: Prone, Christopher D.

Art Unit: 3738

Conf. No.: 2511

REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT
PURSUANT TO 37 CFR § 1.705(d)

Mail Stop Patent Ext
Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

Dear Sir:

U.S. Patent No. **7,722,657** was issued on **May 25, 2010**. Pursuant to 35 U.S.C. § 154(b), the United States Patent and Trademark Office has calculated a patent term adjustment of **1,023** days. A copy of the issue notification for U.S. Patent No. **7,722,657** is included herewith as Exhibit A.

Applicant's Attorney believes that the patent term adjustment should be **1,466** days. For the reasons stated herein, reconsideration of this patent term adjustment is respectfully requested pursuant to 37 CFR 1.705(d). Please charge the petition fee pursuant to 37 CFR § 1.18(e) to Deposit Account No. 23-1925. Please charge any additional fee required or credit for any excess fee paid to Deposit Account No. 23-1925.

The patent term adjustment for U.S. Patent No. **7,722,657** was calculated by the U.S. Patent and Trademark Office based on activities and associated dates detailed in the Patent Application Information Retrieval (PAIR) system Patent Term Adjustment History, attached as Exhibit B. Applicant's Attorney believes that errors and/or omissions in the calculation and/or the PAIR system Patent Term Adjustment History may have resulted in an incorrect patent term adjustment for U.S. Patent No. **7,722,657** as described in detail below. Pursuant to 37 CFR §1.705(d), this request for reconsideration is being filed within two months of the issue date of the above-referenced patent. Note that U.S. Patent No. **7,722,657** is not subject to a terminal disclaimer.

Period of Adjustment Pursuant to 37 CFR § 1.703(b)

The period of adjustment pursuant to 37 CFR § 1.703(b) is the number of days in the period beginning on the day ("the three-year date") after the date that is three years after the date on which the application was filed pursuant to 35 U.S.C. § 111(a).

The present application was filed on **August 25, 2003**. The three-year date determined pursuant to 37 CFR § 1.703(b) is **August 25, 2006**. U.S. Patent No. **7,722,657** was issued on **May 25, 2010**, which is **1369** days beyond the three-year date. As indicated by the PAIR system Patent Term Adjustment History, attached as Exhibit B the total delay by the U.S. Patent Office was **1125** days and the total delay by the Applicant's Attorney was **102** days. Accordingly the total delay in the present application is **1023** days. The PTO however did not take into account the period of delay associated with the successful appellate review under 37 CFR § 1.702(e). The Applicant is entitled to an additional 200 days between August 25, 2006, and when the Notice of Appeal was filed, which was on March 13, 2007 and an additional 265 days

between the BPAI decision on September 12, 2010, and the patent issue date of May 25, 2010. The non-overlapping period of adjustment pursuant to 37 CFR § 1.703(f) is believed to be **443** days. Accordingly, Applicant's Attorney respectfully request re-calculation of the patent term adjustment to take this non-overlapping period delay into account.

Total Patent Term Adjustment

The total patent term adjustment pursuant to 37 CFR § 1.703(f) is the period of adjustment pursuant to 37 CFR § 1.703 reduced by any delay pursuant to 37 CFR § 1.704. Thus, we believe that the patent term adjustment should be **1466** days, instead of the **1023** days indicated on the issued patent.

It is respectfully asserted that the patent term adjustment determined by the U.S. Patent and Trademark Office for U.S. Patent No. **7,722,657** may not be correct. Accordingly, Applicant's Attorney respectfully requests the U.S. Patent and Trademark office to reconsider, and make revisions to the PAIR system Patent Term Adjustment History in view of the previous remarks. In addition, it is respectfully requested that the patent term adjustment be re-calculated by the U.S. Patent and Trademark Office in view of the above remarks. Office personnel are invited to contact Applicant's Attorney via telephone if such communication would be beneficial in fulfilling this request.

Patent No. 7,722,657
Serial No. 10/647,642

Date Issued: May 25, 2010
Date Filed: August 25, 2003

Respectfully submitted,

/Manish K. Mehta/
Manish K. Mehta
Registration No. 64,570
Attorney for Applicant

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EXHIBIT A



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	ISSUE DATE	PATENT NO.	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/647,642	05/25/2010	7722657	PA-5343-RFB	2511

9896 7590 05/05/2010
COOK GROUP PATENT OFFICE
P.O. BOX 2269
BLOOMINGTON, IN 47402

ISSUE NOTIFICATION

The projected patent number and issue date are specified above.

Determination of Patent Term Adjustment under 35 U.S.C. 154 (b) (application filed on or after May 29, 2000)

The Patent Term Adjustment is 1023 day(s). Any patent to issue from the above-identified application will include an indication of the adjustment on the front page.

If a Continued Prosecution Application (CPA) was filed in the above-identified application, the filing date that determines Patent Term Adjustment is the filing date of the most recent CPA.

Applicant will be able to obtain more detailed information by accessing the Patent Application Information Retrieval (PAIR) WEB site (<http://pair.uspto.gov>).

Any questions regarding the Patent Term Extension or Adjustment determination should be directed to the Office of Patent Legal Administration at (571)-272-7702. Questions relating to issue and publication fee payments should be directed to the Application Assistance Unit (AAU) of the Office of Data Management (ODM) at (571)-272-4200.

APPLICANT(s) (Please see PAIR WEB site <http://pair.uspto.gov> for additional applicants):

David Ernest Hartley, Subiaco, AUSTRALIA;

EXHIBIT B



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10/647,642

ASYMMETRIC STENT GRAFT ATTACHMENT

Select New Case	Application Data	Transaction History	Image File Wrapper	Patent Term Adjustments	Continuity Data	Fees	Published Documents	Address & Attorney/Agent	Display References
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Patent Term Adjustment

Filing or 371(c) Date:	08-25-2003	USPTO Delay (PTO) Delay (days):	-
Issue Date of Patent:	05-25-2010	Three Years:	-
Pre-Issue Petitions (days):	-	Applicant Delay (APPL) Delay (days):	-
Post-Issue Petitions (days):	-	Total Patent Term Adjustment (days):	1023
USPTO Adjustment (days):	-	Explanation Of Calculations	

Patent Term Adjustment History

Date	Contents Description	PTO(Days)	APPL(Days)
05-25-2010	PTA 36 Months	22	
05-25-2010	Patent Issue Date Used in PTA Calculation		
04-16-2010	Dispatch to FDC		⬆
04-14-2010	Application Is Considered Ready for Issue		⬆
04-09-2010	Issue Fee Payment Verified		⬆
04-09-2010	Issue Fee Payment Received		⬆
02-12-2010	Mail Notice of Allowance		⬆
01-20-2010	Notice of Allowance Data Verification Completed		⬆
01-20-2010	Document Verification		⬆
11-02-2009	Miscellaneous Incoming Letter		⬆
09-01-2009	Mail BPAI Decision on Appeal - Affirmed in Part	904	
09-01-2009	BPAI Decision - Examiner Affirmed in Part		⬆
02-12-2009	Docketing Notice Mailed to Appellant		⬆
02-11-2009	Assignment of Appeal Number		⬆
12-10-2008	Appeal Awaiting BPAI Docketing		⬆
09-22-2008	Mail Reply Brief Noted by Examiner		⬆
09-17-2008	Reply Brief Noted by Examiner		⬆
07-31-2008	Date Forwarded to Examiner		⬆
07-25-2008	Reply Brief Filed		⬆
06-03-2008	Exam. Ans. Review Complete		⬆
05-29-2008	Mail Examiner's Answer		⬆
05-27-2008	Examiner's Answer to Appeal Brief		⬆
03-16-2008	Appeal Brief Review Complete		⬆
03-16-2008	Date Forwarded to Examiner		⬆
03-14-2008	Appeal Brief Filed		⬆
02-14-2008	Notice -- Defective Appeal Brief		⬆
12-20-2007	Appeal Brief Review Complete		⬆
12-20-2007	Date Forwarded to Examiner		⬆
12-07-2007	Defective / Incomplete Appeal Brief Filed		⬆
12-07-2007	Appeal Brief Filed		⬆
11-05-2007	Notice -- Defective Appeal Brief		⬆
11-01-2007	Appeal Brief Review Complete		⬆
11-01-2007	Date Forwarded to Examiner		⬆
10-11-2007	Defective / Incomplete Appeal Brief Filed		⬆
10-11-2007	Appeal Brief Filed		⬆
10-11-2007	Request for Extension of Time - Granted		⬆
05-07-2007	Mail Appeals conf. Proceed to BPAI		⬆
05-03-2007	Pre-Appeals Conference Decision - Proceed to BPAI		⬆
03-13-2007	Request for Pre-Appeal Conference Filed		⬆
03-13-2007	Notice of Appeal Filed		
03-13-2007	Request for Extension of Time - Granted		⬆
10-26-2006	Mail Advisory Action (PTOL - 303)		⬆

10-25-2006	Advisory Action (PTOL-303)	⌵
10-13-2006	Date Forwarded to Examiner	⌵
10-09-2006	Amendment after Final Rejection	⌵
09-13-2006	Mail Final Rejection (PTOL - 326)	⌵
09-11-2006	Final Rejection	
07-19-2006	Date Forwarded to Examiner	
07-17-2006	Response after Non-Final Action	12
07-17-2006	Request for Extension of Time - Granted	⌵
04-05-2006	Mail Non-Final Rejection	⌵
04-03-2006	Non-Final Rejection	
03-21-2006	Date Forwarded to Examiner	
03-15-2006	Amendment after Final Rejection	
02-10-2006	Mail Final Rejection (PTOL - 326)	
01-18-2006	Final Rejection	
11-10-2005	Information Disclosure Statement considered	
11-10-2005	Reference capture on IDS	
11-10-2005	Information Disclosure Statement (IDS) Filed	
11-10-2005	Information Disclosure Statement (IDS) Filed	
11-17-2005	Date Forwarded to Examiner	
11-10-2005	Response after Non-Final Action	
08-17-2005	Mail Non-Final Rejection	
08-11-2005	Non-Final Rejection	
06-07-2005	Date Forwarded to Examiner	
05-31-2005	Response to Election / Restriction Filed	
05-31-2005	Reference capture on IDS	
05-31-2005	Information Disclosure Statement (IDS) Filed	
05-31-2005	Information Disclosure Statement (IDS) Filed	
05-12-2005	Mail Restriction Requirement	199
05-10-2005	Requirement for Restriction / Election	⌵
04-15-2005	Case Docketed to Examiner in GAU	⌵
07-30-2004	Case Docketed to Examiner in GAU	⌵
03-16-2004	IFW TSS Processing by Tech Center Complete	⌵
03-16-2004	IFW TSS Processing by Tech Center Complete	⌵
03-16-2004	Case Docketed to Examiner in GAU	⌵
03-16-2004	Case Docketed to Examiner in GAU	⌵
03-09-2004	Transfer Inquiry to GAU	⌵
01-09-2004	Application Is Now Complete	⌵
01-09-2004	Application Return from OIPE	⌵
01-09-2004	Application Return TO OIPE	⌵
01-09-2004	Application Is Now Complete	⌵
01-08-2004	Application Dispatched from OIPE	⌵
01-08-2004	Application Is Now Complete	⌵
11-28-2003	Additional Application Filing Fees	⌵
11-28-2003	A statement by one or more inventors satisfying the requirement under 35 USC 115, Oath of the Applicant	⌵
11-18-2003	Notice Mailed--Application Incomplete--Filing Date Assigned	⌵
11-07-2003	Cleared by OIPE CSR	⌵
09-17-2003	IFW Scan & PACR Auto Security Review	⌵
08-25-2003	Initial Exam Team nn	⌵

If you need help:

- Call the Patent Electronic Business Center at (866) 217-9197 (toll free) or e-mail EBC@uspto.gov for specific questions about Patent Application Information Retrieval (PAIR).
- Send general questions about USPTO programs to the [USPTO Contact Center \(UCC\)](#).
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